

Freedom of Information Act Complaint

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
MICHIGAN

Thomas A Hadfield)	
1121 W Boatfield Ave.)	
Flint, MI, 48507)	
)	
Plaintiff,)	
)	
v.)	C.A. No.
)	
U.S. DEPARTMENT OF COMMERCE)	
1401 Constitution Ave NW)	
Washington, DC 20230)	
)	
and)	
)	
NATIONAL OCEANIC AND ATMOSPHERIC ADMIN)	
1401 Constitution Avenue, NW Room 5128)	
Washington, D.C. 20230)	
)	
Defendants.)	
_____)	

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant Department of Commerce (“DOC”) and its component National Oceanic and Atmospheric Administration (“NOAA”),

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff Thomas A Hadfield is a United States citizen residing in Flint, MI

4. Defendant DOC is a Department of the Executive Branch of the United States Government, and includes the component entity NOAA. The DOC is an agency within the meaning of 5 U.S.C. § 552(f).

5. Defendant NOAA is a component entity of the DOC. NOAA is an agency within the meaning of 5 U.S.C. § 552(f).

**Government Agencies' Acquisition
of Scans and Release of Online
Information**

6. In January 2021, NOAA released Bathymetric scans of the Straits of Mackinac on their at ncei.noaa.gov/maps/bathymetry it was a limited release and only available for a few weeks before they removed it. Around this same time the company contracted to scan this area released a redacted report that stated 13 anomalies were located believed to be previously unknown shipwrecks

7. NOAA also reports on their website the a 17 million dollar project was completed on 2019 that covered 317 square miles mapping the Straits of Mackinac a 130 day project from May to September <https://noaa.maps.arcgis.com/apps/MapJournal/index.html?appid=36ed94e394c44a5da5866ef1b868ec73>.

8. An Mlive article released in February of 2022 also lists scans in the Straits, (2019) Lake Michigan (2019-2020), Lake Superior (2021) and upcoming scanning of Lake Erie (2022) all taxpayer funded surveys that are being kept from the public's view, <https://www.mlive.com/public-interest/2022/02/on-first-mission-to-great-lakes-noaa-ship-will-sonar-map-lake-erie.html>

9. On about June 28th the Plaintiff messaged the State of Michigan SHPO office to inform them of the wreck he found of the Elva off Arch Rock on Mackinac Island and was informed that it was already been reported to them 2 years ago by NOAA scans, the plaintiff also recalled speaking with Wayne Lesardi of SHPO earlier in the year while looking at scans that used to be available on the NEIC website and him mentioning a list/database that was provided to them, and the remains of the wreck was already identified.

Plaintiff's FOIA Requests and Defendants' Failure to Respond

10. By online FOIA submission on dated March 25, 2021, plaintiff submitted Freedom of Information Act ("FOIA") requests for "I would like to have NOAA's compiled list of Great lakes anomalies from their scans, I know they have released information to the states in a database form with Lat/Long coordinates and what they believe the anomalies to be. Specifically a list of possible shipwreck anomalies but I would be happy with all of them." Noting the scans from 2009 to present such as H13258 and F00500 which used to be available but was pulled from the website.

**Defendant DOC and NOAA's Failure to Timely Comply with Plaintiff's
Request**

11. Defendants acknowledged the submission through the Email and FOIA online, defendant DOC acknowledged the appeal separately on May 19, 2022 Plaintiff throughout the year acknowledging COVID asked for updates and was told it was being worked on, Plaintiff also enlisted the help of Senator Debbie Stabenow's office around the first part of January 2022 to try and get a resolution to his request, until he received a letter from NOAA stating the request has been aging and wanted to know if he was

still interested in the information and if they didn't get a reply the case would be closed, at this time . The Plaintiff then appealed his request to the DOC on the grounds of no reply equaling an administrative denial. NOAA responded that the letter was sent in error and they were still consulting on possible 304 exemptions, Plaintiff provided an argument to DOC to add to his appeal that 304 isnt applicable because of laws already in effect to protect the wrecks and the States public claims that they will not do anything to protect the wrecks from degradation and are incapable of documenting them in a timely manner, He also showed where the private sector has and continues to document them with video and photo evidence including making 3d virtual files available to the public at no charge, applying 304 would do the opposite of protecting a historic place.

12. To date, defendants NOAA or DOC has not provided a denial with a detailed explanation or the records requested by plaintiff in its FOIA request and appeal, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

13. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to defendants NOAA and DOC. Including asking for mediation through the Office of Government Information Services, and enlisting the help of Senator Debbie Stabenow's Office

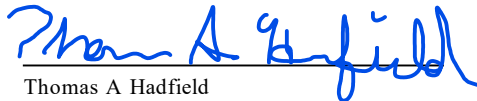
14. Defendant NOAA and DOC has wrongfully withheld the requested records from plaintiff.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- A. order defendants to disclose the requested records in their entirety and make copies available to plaintiff;
- B. provide for expeditious proceedings in this action;
- C. award plaintiff its costs incurred in this action; and
- D. grant such other relief as the Court may deem just and proper.

Respectfully submitted,



Thomas A Hadfield

Plaintiff

1121 W Boatfield Ave
Flint, MI 48507
(810) 268-4294

8-18-22

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Thomas A Hadfield

DEFENDANTSUS Department of Commerce
National Oceanic and Atmospheric Administration

(b) County of Residence of First Listed Plaintiff Genesee
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Freedom of Information Act, 5 U.S.C. § 552
Brief description of cause:
Failure to comply with the freedom of information act requirements in a reasonable or timely manner

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ **CHECK YES only if demanded in complaint:**
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

August 18, 2022

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
